

kmp7299/MM
Return Date & Time:
June 12,2019 at 09:55 AM

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Mercie Franchella,

Debtor(s).

-----X

Chapter 13 Case No: 19-22262

NOTICE OF MOTION

PLEASE TAKE NOTICE, that upon the within application, the Chapter 13 Trustee will move this court before the Honorable Sean H. Lane U.S. Bankruptcy Judge, at the United States Bankruptcy Court, 300 Quarropas Street White Plains, NY 10601, on June 12, 2019 at 09:55 AM, or as soon thereafter as counsel can be heard, for an Order pursuant to 11 U.S.C. §1307(c) for cause, dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Responsive papers shall be filed with the Bankruptcy Court and served upon the Chapter 13 Trustee, Krista M. Preuss, Esq., no later than seven (7) days prior to the hearing date set forth above. Any responsive papers shall be in conformity with the Federal Rules of Civil Procedure and indicate the entity submitting the response, the nature of the response and the basis of the response.

Date: White Plains, New York
May 21, 2019

/s/ Krista M. Preuss

KRISTA M. PREUSS, CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, STE 102
WHITE PLAINS, NY 10603
(914)328-6333

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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Chapter 13 Case No: 19-22262

Mercie Franchella,

APPLICATION

Debtor(s).

-----X

TO THE HONORABLE, SEAN H. LANE, U.S. BANKRUPTCY JUDGE:

KRISTA M. PREUSS, ESQ., Standing Chapter 13 Trustee in the above-captioned estate, respectfully represents the following:

1. The Debtor filed a petition under the provisions of 11 U.S.C. Chapter 13 on February 14,2019, and, thereafter, KRISTA M. PREUSS was duly appointed and qualified as Trustee.

2. The Debtor has failed to comply with 11 U.S.C. §521(a)(1) and Bankruptcy Rule 1007(b) in that the following required documents have not been filed:

a. copies of all payment advices or other evidence of payment for last 60 days before the date of the filing of the petition by the Debtor from any employer of the Debtor pursuant to 11 U.S.C. §521(a)(1)(B)(iv).

3. Furthermore, the Debtor has failed to:

a. to comply with 11 U.S.C. §1325(a)(6) in that Debtor failed to submit timely Chapter 13 plan payments to the Trustee, as the first payment due in March 2019 was missed and Debtor remains one payment in arrears in the total sum of \$1,000;

b. provide the Trustee a copy of a federal income tax return or transcript for the most recent year, 7 days before first meeting of creditors pursuant to 11 U.S.C. §521(e)(2)(A)(i).

4. The time limits set forth in Bankruptcy Rule 1007(c) have expired and no extension of time has been granted by the Court.

5. The Debtor's failure to file these items impedes the Trustee's ability to administer this case and, therefore, is a default that is prejudicial to the rights of the creditors of the Debtor pursuant to 11 U.S.C. §1307(c)(1).

6. Each of the foregoing constitutes cause to dismiss this Chapter 13 case within the meaning of 11 U.S.C. §1307(c).

WHEREFORE, the Chapter 13 Trustee respectfully requests that this Court enter an Order dismissing this Chapter 13 case and for such other and further relief as may seem just and proper.

Dated: White Plains, New York
May 21, 2019

/s/ Krista M. Preuss
Krista M. Preuss, Chapter 13 Trustee

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

Mercie Franchella

Chapter 13 Case No: 19-22262

CERTIFICATE OF SERVICE
BY MAIL

Debtor.

-----X

This is to certify that I, Meghan McCarthy, have this day served a true, accurate and correct copy of the within Notice of Motion and Application by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the following persons at the last known address set forth after each name:

Mercie Franchella
22 West View Ave
Port Chester, NY 10573

Linda Tirelli, Esq.
50 Main St Suite 1265
White Plains, NY 10606

This May 21, 2019

s/Meghan McCarthy
Meghan McCarthy, Case Support
Office of the Standing Chapter 13 Trustee
Krista M. Preuss, Esq.
399 Knollwood Road, Suite 102
White Plains, NY 10603

CHAPTER 13 CASE NO: 19-22262
UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE:

Mercie Franchella,

Debtor(s).

**NOTICE OF MOTION, APPLICATION
and
CERTIFICATE OF SERVICE**

**KRISTA M. PREUSS
STANDING CHAPTER 13 TRUSTEE
399 KNOLLWOOD ROAD, SUITE 102
WHITE PLAINS, NEW YORK 10603
(914) 328-6333**
